

## REMARKS

Claims 1-34 are pending prior to entering this amendment. The examiner rejects claims 20-25 under 35 U.S.C. 101 as directed to non-statutory subject matter. The examiner rejects claims 1-34 under 35 U.S.C. 103(a) as unpatentable over Ginter, et al. (U.S. Patent No. 5,892,900) and Srivastava, et al (U.S. Patent No. 6,845,499). Applicant amends claims 1-2, 5-6, 9, 14, 20, 26-28, and 31-33. Claims 1-34 remain in the application after entering this amendment. Applicant adds no new subject matter and requests reconsideration.

### Claim Rejections – 35 USC § 101

The examiner rejects claims 20-25 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant amends claim 20, which obviates the examiner's rejection.

### Claim Rejections – 35 USC § 103

The examiner rejects claims 1-34 under 35 U.S.C. 103(a) as unpatentable over Ginter and Srivastava. Applicant respectfully traverses the examiner's rejections.

Applicant amends claims 1, 20, 26, and 31 to clarify that the registered users are entitled to perform a commercial transaction to download software when they provide financial consideration for the software to be downloaded or established a service contract corresponding to the software to be downloaded.

Amended claim 1 recites *determining whether the registered user is entitled to perform a commercial transaction to download software from the software distribution system, where the register user is entitled to perform a commercial transaction with the software distribution system when the register user has provided financial consideration for the software to be downloaded from the software distribution system or established a service contract corresponding to the software to be downloaded*. Claims 20, 26, and 31 recite similar limitations.

The examiner alleges Ginter's virtual distribution environment VDE discloses the recited software distribution system. The VDE, however, does not perform any entitlement determination based on payment or service contract establishment that is separate and distinct from its "rules and controls" end user registration or authentication. In other words, the VDE

provides content to the end users 3310 regardless of whether the end users 3310 have paid for the content or have entered a service contract corresponding to the content. See, Ginter, col. 316, lines 35-52, where the VDE charges the end users 3310 after providing them content from the repository to the end user 3310. See also, Ginter, col. 260, lines 3-31, where the Ginter provides for an encumbrance to be levied against end users 3310 who do not paid there debts incurred by downloading content. There further is no disclosure in Ginter of the end users 3310 establishing a service contract, much less of the VDE refusing to provide content to the end users 3310 after they are authenticated according to the VDE's rules and controls. Ginter, col. 56, line 65 – col. 57, line 3. Ginter therefore does not anticipate claims 1, 20, 26, and 31 or their corresponding dependent claims.

Applicant further amends claim 14 to recite *when the registered user is not entitled to proceed with the commercial transaction, prompting the registered user to provide financial consideration for the software to be downloaded or to establish a service contract for the software to be downloaded and investigating to determine if the registered user successfully provided financial consideration for the software to be downloaded or to established a service contract for the software to be downloaded*. Claims 27 and 32 recite similar limitations.

As discussed above, there is no disclosure in Ginter of the VDE requiring entitlement in the form of prior payment or establishment of a service contract, much less prompting end users 3310 to provide financial consideration or establish a service contract for software to be downloaded when the end users 3310 are not entitled to download the software. Furthermore Ginter does not teach or suggest the VDE investigating whether the end users 3310 successfully provided financial consideration for the software to be downloaded or established a service contract for the software to be downloaded after prompting from the VDE. Ginter therefore does not anticipate claims 14, 27, and 32.

Applicant amends claims 1, 20, 26, and 31 to clarify that the registered users are provided access to software projects and tools that facilitate the development of the software projects when the registered user is authorized to perform internal software development activity.

Amended claim 1 recites *providing the registered user access to one or more software projects and tools that facilitate the development of the software projects when the registered user is authorized to perform internal software development activity, where the register user*

*utilizes the tools to create or modify the software projects or established a service contract corresponding to the software to be downloaded.* Claims 20, 26, and 31 recite similar limitations.

The examiner alleges Ginter's end users 3310 disclose the recited registered user. The end users 3310, however, do not perform internal software development activities that create or modify software projects in Ginter's VDE. See, Ginter, col. 309, lines 56-59, where authors 3306, publishers 3308, and editors 3314 can add, modify or hide content on the VDE, while end users 3310 download content from the VDE for business or personal use.

There further is no disclosure in Ginter of providing any user (much less end users 3310) tools to that facilitate the development of the content. See, Ginter, col. 286, lines 1-6. Since Ginter does not teach or suggest end users 3310 perform internal software development activities that create or modify software projects in Ginter's VDE, much less with tools provided by the VDE, Ginter does not anticipate claims 1, 20, 26, and 31 or their corresponding dependent claims.

Amended claim 9 recites *populating the software distribution system with data corresponding to downloadable software with a software publishing tool available to registered users authorized to perform internal software development activities, the data includes software code, product release information corresponding the downloadable software, and packaging information that maps the software code to a displayable image corresponding to the downloadable software and receiving requisite supervisory authorization to proceed with the publication of the downloadable software, where the requisite supervisory authorization includes an accuracy check of the downloadable software by a manager of the software distribution system other than the registered user that populated the software distribution system with data corresponding to downloadable software.* Claims 28 and 33 recite similar limitations.

Ginter does not teach or suggest populating the VDE with software code, product release information corresponding the downloadable software, and packaging information that maps the software code to a displayable image corresponding to the downloadable software as the claim requires. Further there is no disclosure in Ginter of a provider needing to receive supervisory authorization to publish content to the VDE, much less authorization from a manager of the VDE (where the manager is not the user that populated the VDE with data corresponding to content).


Since Ginter therefore does not anticipate claims 9, 28, and 33, or their corresponding dependent claims.

### CONCLUSION

For the foregoing reasons, reconsideration and allowance of all claims of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

  
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Jeffrey J. Richmond  
Reg. No. 57,564

MARGER JOHNSON & McCOLLOM, P.C.  
210 SW Morrison Street, Suite 400  
Portland, OR 97204  
503-222-3613  
**Customer No. 20575**